

1 ALEXEY KONDRATIEV
2 3045 16th Sideroad,
3 King City, Ontario L7B1A3
Canada

4 *Pro Se Defendant*

5 UNITED STATES DISTRICT COURT
6

7 DISTRICT OF ARIZONA

8 Oleg Boyko, et al.

9 Plaintiffs,

10 v.

11 Alexey Kondratiev, et al.

12 Defendants.

13 No. CV-23-01186-PHX-DLR

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DECLARATION OF ALEXEY KONDRATIEV IN SUPPORT OF THE MOTION TO DESIGNATE THE HEARING AS EVIDETIARY AND ALLOW DEFENDANT TO APPEAR AND TESTIFY VIA VIDEO-CONFERENCE ON AUGUST 25, 2023

DECLARATION OF ALEXEY KONDRATIEV

I, Alexey Kondratiev, hereby declare and swear as follows:

1. I am an individual residing in King City, Ontario, Canada. I make this Declaration in support of my Motion to designate the hearing as evidentiary and to allow me to appear and testify via video-conference.

2. Attached hereto as **Exhibit A** is a true and correct copy of my letter to the opposing counsel dated July 20, 2023.

3. Attached hereto as **Exhibit B** is a true and correct copy of the email exchange between me and the opposing counsel, between July 25 and August 17, 2023.

1 I declare under penalty of perjury under the laws of the United States and the State
2 of Arizona that the foregoing is true and correct.
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5 Executed on August 18, 2023, at King City, Ontario, Canada

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9 Alexey Kondratiev

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Exhibit A

Alexey Kondratiev

3045 16th Sideroad, King City, ON L7B1A3

Phone: (416) 456-9875 — Email: akondratiev@mac.com

July 20, 2023

VIA E-MAIL

FENNEMORE CRAIG, P.C.

Amy Abdo

Brett C. Gilmore

2394 E. Camelback Road, Suite 600

Phoenix, Arizona 85016

Email: amy@fennemorelaw.com

Email: bgilmore@fennemorelaw.com

LOEB & LOEB LLP

OLEG STOLYAR

astolyar@loeb.com

JEREMY MARGOLIS

imargolis@loeb.com

DAVID BEDDINGFIELD

dbeddingfield@loeb.com

10100 Santa Monica Blvd., Suite 2200

Los Angeles, CA 90067

Dear counsel,

Re: Oleg Boyko, et al. v. Alexey Kondratiev, et al.

I am in receipt of your documents. Due to the short notice provided for the matter, I will be representing myself in the upcoming motion.

Please advise me of Mr. Stolyar's, Mr. Boyko's and Mr. Tyndik's availabilities for cross-examination for the upcoming week. In the event that the witnesses are unavailable for examination, I will be requesting an adjournment.

Yours truly,



Alexey Kondratiev

Exhibit B

From: Alex Stolyar astolyar@loeb.com 
Subject: RE: CV-23-01186-PHX-DLR, Oleg Boyko et al. vs Alexey Kondratiev, et al.
Date: August 17, 2023 at 4:46 PM
To: Alexey Kondratiev akondratiev@mac.com
Cc: amy@fennemorelaw.com, bgilmore@fennemorelaw.com, David Beddingfield dbeddingfield@loeb.com, Jeremy Margolis jmargolis@loeb.com



Dear Mr. Kondratiev,

This email chain is not the proper venue to litigate the merits of our respective positions, so we will indeed raise this issue with the Court. Suffice it to say that we flatly disagree with your contentions that any of the testimony submitted in support of the Motion was false or perjurious; and nor have you provided any evidence of same.

We will not agree to your Joint Notice, for the same reasons that you did not agree to our proposed Joint Notice. The parties have different positions as to whether the Hearing should be evidentiary or via oral argument. Thus, we will be filing our own Statement setting forth Plaintiffs' position, and you can of course do the same.

Very truly yours,

Alex Stolyar

Partner



10100 Santa Monica Blvd., Suite 2200 | Los Angeles, CA 90067
 Direct Dial: 310.282.2291 | Fax: 310.919.3878 | E-mail: astolyar@loeb.com
 Los Angeles | New York | Chicago | Nashville | Washington, DC | San Francisco | Beijing | Hong Kong | www.loeb.com

From: Alexey Kondratiev <akondratiev@mac.com>
Sent: Thursday, August 17, 2023 9:45 AM
To: Alex Stolyar <astolyar@loeb.com>
Cc: amy@fennemorelaw.com; bgilmore@fennemorelaw.com; David Beddingfield <dbeddingfield@loeb.com>; Jeremy Margolis <jmargolis@loeb.com>
Subject: Re: CV-23-01186-PHX-DLR, Oleg Boyko et al. vs Alexey Kondratiev, et al.

Dear Mr. Stolyar,

You may raise your arguments with the court in due course.

My final and firm position is that the hearing should be evidentiary given that I have a right to cross-examine witnesses who signed the declarations.

I demand an evidentiary hearing on account of the Plaintiffs obtaining a Temporary Restraining Order through fraudulent misrepresentation and perjury. The Plaintiffs are now trying to obtain a Preliminary Restraining Order whilst relying on the same fraudulent evidence. I intend to impeach Mr. Tyndik and/or Mr. Boyko based on cross-examinations at the hearing.

Please see the attached Joint Notice for which I am requesting your e-signature.

Regarding Zoom appearances: Please confirm that we have a reciprocal agreement for Zoom appearance **and testimony** of all witnesses including myself at the August 25th hearing.

Regarding Mr. Tyndik's deposition: Mr. Tyndik will be deposed in accordance with a Discovery Plan once we agree upon one.

Best regards,
Alexey Kondratiev

On Aug 17, 2023, at 12:45 AM, Alex Stolyar <astolyar@loeb.com> wrote:

Dear Mr. Kondratiev,

As follow up to my email below, please note that while we do not object to your appearance via zoom on August 25 (subject to your reciprocal agreement that Plaintiffs' counsel/witnesses may appear via zoom), we do object to the need for an evidentiary hearing.

First, you have previously agreed to oral argument in lieu of evidentiary hearing. It is improper for you to change your position at this late stage.

Second, in light of the Court's 08/15 Order, we have offered to make Mr. Tyndik available for deposition in advance of the 08/25 hearing. Thus, there will be no need for you to cross-examine Mr. Tyndik at the hearing, as you will have already had an opportunity to take his testimony.

Third, there is no legitimate basis for you to depose and/or cross-examine myself, as depositions of opposing counsel are heavily disfavored as a matter of law.

Lastly, there is no legitimate basis for you to depose and/or cross-examine Mr. Boyko, as the cybersquatting claim at issue on the Preliminary Injunction motion does not rely on Mr. Boyko's declaration.

Very truly yours,

Alex Stolyar
Partner
<image001.jpg>

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From: Alex Stolyar
Sent: Wednesday, August 16, 2023 8:00 PM
To: Alexey Kondratiev <akondratiev@mac.com>
Cc: amy@fennemorelaw.com; bgilmore@fennemorelaw.com; David Beddingfield <dbeddingfield@loeb.com>; Jeremy Margolis <jmargolis@loeb.com>
Subject: RE: CV-23-01186-PHX-DLR, Oleg Boyko et al. vs Alexey Kondratiev, et al.

Dear Mr. Kondratiev,

First, we have no objection to you appearing via zoom on August 25, **assuming** you reciprocally agree that any of Plaintiffs' witnesses may appear via zoom on August 25. Please advise if that is agreeable by Noon tomorrow (August 17).

Second, given the Court's August 15 Order allowing discovery to commence, we can make Mr. Tyndik available for deposition (via zoom) on August 21, 22, or 23. Please advise if any of those dates work for you.

Very truly yours,

Alex Stolyar

Partner

<*image001.jpg*>

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From: Alexey Kondratiev <akondratiev@mac.com>
Sent: Monday, August 14, 2023 11:44 AM
To: Alex Stolyar <astolyar@loeb.com>
Cc: amy@fennemorelaw.com; bgilmore@fennemorelaw.com; David Beddingfield <dbeddingfield@loeb.com>; Jeremy Margolis <jmargolis@loeb.com>
Subject: Re: CV-23-01186-PHX-DLR, Oleg Boyko et al. vs Alexey Kondratiev, et al.

Dear Mr. Stolyar,

My position is that the hearing should be evidentiary. Please see the

attached draft document.

I intend to bring a motion for my appearance and testimony via video-conference (Zoom). Please state any objections you may have to this by no later than Thursday, August 17, 2023.

Best regards,
Alexey Kondratiev

On Aug 14, 2023, at 12:50 PM, Alex Stolyar
<astolyar@loeb.com> wrote:

Dear Mr. Kondratiev,

Pursuant to the Court's 07/31 Order, the parties are required to "jointly notify" the Court by August 17, as to whether the August 25 hearing will be by oral argument or an evidentiary hearing.

As you agreed below that the hearing will be via oral argument, attached please find the Joint Notice reflecting same. Please let me know if we have your approval to insert your electronic signature into the attached Joint Notice? Please let us know by Noon tomorrow (Aug. 15).

Very truly yours,

Alex Stolyar

Partner

<*image001.jpg*>

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|Beijing | Hong Kong | www.loeb.com

From: Alexey Kondratiev <akondratiev@mac.com>

Sent: Tuesday, July 25, 2023 3:38 PM

To: Alex Stolyar <astolyar@loeb.com>

Cc: amy@fennemorelaw.com; bgilmore@fennemorelaw.com;

David Beddingfield <dbeddingfield@loeb.com>; Jeremy Margolis
<jmargolis@loeb.com>

Subject: Re: CV-23-01186-PHX-DLR, Oleg Boyko et al. vs
Alexey Kondratiev, et al. - Videoconference and email service

Dear Mr. Stolyar,

1. I confirm the reciprocal agreement to accept the service by email.
2. Please confirm your receipt of my letter dated July 20, 2023. This letter states my position is that the hearing should be adjourned until I have an opportunity to examine the witnesses; please advise the court accordingly. Kindly note that I am also not available on Tuesdays and Thursdays.
3. I confirm the reciprocal agreement to conduct the hearings via Zoom as oral arguments only.

Best regards,
Alexey Kondratiev

On Jul 25, 2023, at 2:05 PM, Alex Stolyar
<astolyar@loeb.com> wrote:

Dear Mr. Kondratiev,

1. This confirms that Plaintiffs consent to a reciprocal delivery of all filings/correspondence by email as a valid means of service in this case.
2. With respect to the upcoming Preliminary Injunction Hearing on August 15, I'm unavailable on that date due to a scheduling conflict. Accordingly, we will be asking the Court to move the hearing date to either (i) August 14, or (ii) August 16, or the first available date thereafter. Please advise if you have any objection to that request by end of today (July 25).
3. Lastly, with respect to your request to conduct the Hearing via video-conference (e.g., via Zoom), we would agree **subject to** (i) the appearances via video-conference being reciprocal, and (ii) your agreement that the Hearing will be by oral argument, rather than evidentiary. Please let me know if this is agreeable, by end of tomorrow (July 26).

Very truly yours,

Alex Stolyar

Partner

<image001.jpg>

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Alex Stolyar

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From: Alexey Kondratiev <akondratiev@mac.com>

Sent: Friday, July 21, 2023 9:06 AM

To: amy@fennemorelaw.com; [bgilmore@fennemore](mailto:bgilmore@fennemorelaw.com)

aw.com; Alex Stolyar <astolyar@loeb.com>; David

Beddingfield <dbeddingfield@loeb.com>; Jeremy

Margolis <jmargolis@loeb.com>

Subject: CV-23-01186-PHX-DLR, Oleg Boyko et al.

vs Alexey Kondratiev, et al. - Videoconference and email service

Dear Counsel,

1. I am seeking your consent to conduct the upcoming preliminary injunction hearing at 9:30 AM on August 15, 2023 before Judge Douglas L. Rayes by videoconference (Zoom). I will arrange for the videoconference with the Court Clerk should I receive consent.
2. In addition, I am further seeking your consent for reciprocal delivery of all related documents by email as a valid means of service.

Yours truly,
Alexey Kondratiev

<2023-08-11 Joint Notice Re Aug 25 Hearing.docx>